

**DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITTING AND COMPLIANCE DIVISION**

**PROGRAMMATIC ANALYSIS OF THE LICENSING OF RECYCLING FACILITIES
FOR THE JUSTIFICATION OF A CATEGORICAL EXCLUSION
PURSUANT TO ARM 17.4.607**

WASTE AND UNDERGROUND TANK MANAGEMENT BUREAU – SOLID WASTE PROGRAM

JUSTIFICATION FOR A CATEGORICAL EXCLUSION

The Department is not required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), pursuant to the Montana Environmental Policy Act, for the actions that qualify for a “categorical exclusion”. The phrase “categorical exclusion” refers to a type of action which does not individually, collectively, or cumulatively require an EA or an EIS, as justified by a programmatic review.

The following programmatic review describes actions that seldom, if ever, cause significant impact. The programmatic review also identifies the circumstances that could cause an otherwise excluded action to potentially have significant environmental impacts and provides the procedure whereby these situations would be discovered and appropriately analyzed.

The Department believes a categorical exclusion from preparation of an EA or EIS for the licensure of recycling facilities is justified by the following programmatic review.

DESCRIPTION OF PROJECT – SUMMARY OF PROGRAMMATIC ANALYSIS

The Montana Department of Environmental Quality is proposing to license recycling facilities without any fees. Section 75-10-221 Montana Code Annotated (MCA) requires that all solid waste management systems operating in the State of Montana obtain a license from the Department of Environmental Quality (Department). Recycling facilities in the State of Montana have not been licensed by the Department unless the facility accepted parts from dismantled automobiles. Facilities that accept parts from wrecked or damaged automobiles are licensed as motor vehicle wrecking facilities by the Department. A Recycling Facility meets the Montana definition of a resource recovery facility found in MCA 75-10-203: “a facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.” A recycling facility is distinguished from other resource recovery facilities by the fact that they purchase, or accept at no charge, the materials they are recycling.

The licensing of recycling facilities will occur for the tracking of current recyclers and maintaining information on materials recycled. Recycling operations that collect, sort, process, and convert into raw materials used in the production of new products will be required to obtain the proposed license from the Department.

The waste materials used by recycling operations are limited to non-hazardous wastes generated by private residences and commercial facilities. Since recycling operations process limited types of material, they have less potential for adverse environmental impacts. The application and licensing process is easier for recycling and encourages resource recovery. However, the information required still allows the Department to properly evaluate the environmental impacts of these facilities to identify whether circumstances warrant a more comprehensive environmental analysis.

The Recycling License application form is included in Appendix A. This form provides an outline of the specific information required regarding the plan of operations, information specific to the site and the

materials being processed, as well as information about the applicant. If the Department concludes the completed application meets the criteria set out in this programmatic analysis, no further analysis under the Montana Environmental Policy Act (MEPA) would be required.

BENEFITS AND PURPOSE OF PROJECT: The benefits and purpose of the project are to provide for clear and consistent regulation of recycling operations while maintaining protection of human health and the environment. The Department has a standardized plan for the submittal of information to facilitate the review and licensing of recycling operations to maximize the efficiency of the decision-making and licensing process for the applicant. This documentation provides a categorical exclusion from the more detailed application process and environmental analysis required for other solid waste management facilities. The proposed rules more efficiently allocate Department solid waste staff and resources towards licensing and compliance activities associated with larger, more complex solid waste management facilities.

AGENCY ROLES AND RESPONSIBILITIES: The Department is responsible for ensuring activities proposed under the Solid Waste Management Act are in compliance with the Act and with other State and Federal regulations. Licenses issued pursuant to these regulations do not confer any property rights to a licensee. Each licensee is responsible for obtaining any special use permits and complying with other agency, county, or local/city restrictions and requirements.

ALTERNATIVES CONSIDERED

In addition to the proposed licensing action, the Department considered the “no-action” alternative and an alternative which would require individual environmental assessments of each facility. The “no-action” alternative would be to not require the licensure of Recycling Facilities. The “no-action” alternative does not satisfy the Department’s obligation under the law. The “no-action” alternative would not accomplish the intended goal of increasing the effective use of Department staff and resources and would not provide a way to measure compliance with the proposed recycling rules for waste products nor determine compliance with the operational standards. Individual assessments of each facility are considered unnecessary since the environmental impacts are anticipated to be minimal. This alternative would require an application fee to recover the costs of the environmental assessments.

NO-ACTION: Under the No-Action Alternative, the Department would not require each applicant to license their Recycling Facility with the Department.

INDIVIDUAL ENVIRONMENTAL ASSESSMENTS: Under this alternative the Department would be required to prepare individual environmental assessments for each applicant. This alternative would be very time consuming and costly for the Department. Individual application fees would be necessary to recover the costs associated with the environmental assessments, which could have a negative impact by discouraging recycling. Upon receipt of a new recycling license application and completion of an environmental assessment by the Department, the Department would send a notice to all contiguous landowners that provides for a 30-day comment period on the proposed project. Comments received would be reviewed and a final decision would be made as to whether the project will be licensed or denied, or additional information would be required in order to respond to the comments.

PROPOSED ALTERNATIVE: Under this alternative, the Department would use a standardized approach to process the Recycling Facility License application. Applicants will submit a completed Recycling Facility Application Form. Upon receipt of a complete new recycling license application, the Department will send a notice to all contiguous landowners that provides for a 30-day comment period on the proposed project. Comments received will be reviewed and a final decision will be made as to whether the project will be

licensed or denied, or additional information is required in order to respond to the comments. An annual license is required and operators will be required to supply the Department information relative to the recycling facility on an annual basis. The license will be issued free of charge to the applicant.

Appendix A contains the Recycling Facility License application form. The form outlines and defines the information required to process the license application, including the Recycling Facility Operations and Maintenance Plan submittal requirements. The proposed rules include new licensing and reporting requirements.

IMPACTS AND AFFECTED ENVIRONMENTS

The level of impacts to the physical, biological, social, and economic environments have been reviewed and are presented in Tables 1 and 2. The proposed rules would include requirements limiting recycling facilities' operations to levels that are protective of human health and the environment. Department staff would enforce the proposed rules by inspecting these facilities periodically, as well as reviewing the information each facility will be required to submit on an annual basis.

TABLE 1 - PREDICTED IMPACTS OF THE PROPOSED PROJECT ON THE PHYSICAL & BIOLOGICAL ENVIRONMENTS

RESOURCE	LEVEL OF IMPACT ¹					
	Major	Moderate	Minor	None	Unknown	Appendix
1. Terrestrial and Aquatic Life and Habitat				✓		
2. Water Quality, Quantity, and Distribution				✓		
3. Geology and Soil Quality, Stability and Moisture				✓		
4. Vegetation Cover, Quantity and Quality				✓		
5. Aesthetics				✓		
6. Air Quality				✓		
7. Unique, Endangered, Fragile or Limited Environmental Resources				✓		
8. Demands on Environmental Resources of Water, Air, and Energy				✓		
9. Historical and Archaeological Sites				✓		

¹ CUMULATIVE IMPACTS: No impacts are anticipated as the Department limits the type and amount of material used and the maximum volume of fuel produced for small recycling operations. Recycling licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and the site operation and maintenance plan.

TABLE 2 - PREDICTED IMPACTS OF THE PROPOSED PROJECT ON THE SOCIAL & ECONOMIC ENVIRONMENTS

RESOURCE	LEVEL OF IMPACT ¹					
	Major	Moderate	Minor	None	Unknown	Appendix
1. Social Structure and Mores				✓		
2. Cultural Uniqueness and Diversity				✓		
3. Local and State Tax Base and Tax Revenue				✓		
4. Agricultural or Industrial Production				✓		
5. Human Health				✓		
6. Access to and Quality of Recreational and Wilderness Activities				✓		
7. Quantity and Distribution of Employment				✓		
8. Distribution of Population				✓		
9. Demands for Government Services				✓		
10. Industrial and Commercial Activity				✓		
11. Locally Adopted Environmental Plans and Goals				✓		

¹ CUMULATIVE IMPACTS: No impacts are anticipated as the Department limits the type of material . Recycling licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and the site operation and maintenance plan.

PREFERRED ALTERNATIVE

The Department's preferred alternative is to adopt the general Recycling License rules and application requirements described in this programmatic analysis without modifications.

RECOMMENDATIONS FOR FURTHER ENVIRONMENTAL ANALYSIS

☐ EIS ☐ More Detailed EA ☒ No Further Action

Rationale for recommendation: This licensing process for recycling facilities would be a more efficient way for applicants to apply for licenses and for the Department to review those applications. There would be no impact to the existing environments as the Department limits the type of material recycled by recycling facilities. The recycling facility licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and the site operation and maintenance plan. The recycling of the waste materials that the recycling facilities are restricted to recycle is considered to be the preparation of a waste product for beneficial reuse.

APPENDIX A

**DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITTING AND COMPLIANCE DIVISION
WASTE AND UNDERGROUND TANK MANAGEMENT BUREAU
SOLID WASTE PROGRAM
P.O. Box 200901
HELENA, MT 59620-0901
PHONE: 406-444-5300
FAX: 406-444-1374**

RECYCLING FACILITY LICENSE APPLICATION

Section 1 – General Information	
Applicant Name: <hr/>	Business Mailing Address: <hr/>
Business Name: <hr/>	City: _____ Zip: _____
Applicant Title: <hr/>	Phone: _____ Fax: _____ Email: _____
Section 2 – Site Location Information	
Proposed Site Location/Physical Address:	
Site Legal Description (Location): (Section, Township, and Range [to nearest ¼ Section]) Latitude/Longitude: Is applicant listed above the owner of the facility property: <input type="checkbox"/> YES <input type="checkbox"/> NO (Attach proof of ownership. If applicant is not the legal landowner, provide current landowner information below) Landowner Name: _____ Landowner Mailing Address: _____ City: _____ State: _____ Zip: _____ Landowner Phone Number: _____	

Section 3 – Attachments

Recycling Facility Operation and Maintenance Plan (required)

An operation and maintenance plan MUST BE INCLUDED that provides provisions for EACH of the following items:

- (a) Schedule of Operation
- (b) Site Description
- (c) Site access controls;
- (d) Types and sources of waste materials to be recycled, including a description of the source, quality, and anticipated quantity of the wastes;
- (e) Daily traffic flow and procedures for unloading trucks;
- (f) List of equipment available for use;
- (g) Description of any physical or chemical processes used;
- (h) Description of the ultimate use for the recycled wastes;
- (i) Method of recycling;
- (j) Method of removal from the site and a plan for the disposal of recycled material that cannot be used in the expected manner;
- (k) Description of personnel required and their responsibilities;
- (l) Drainage control;
- (m) Description of any monitoring that will occur involving the recycling process or the site;
- (n) A contingency plan that outlines steps taken in the event (i) unapproved materials are delivered to the site, (ii) groundwater contamination is identified, or (iii) soil contamination is identified, (iv) other undesirable conditions are noted;
- (o) Safety Procedures and documents specifying compliance to the Occupational Safety and Health Administration regulations;
- (p) A Closure Plan that provides detailed estimates for a third party closure resulting from (1) accidental release and (2) site closure - termination of activities
The Closure Plan shall describe procedures for terminating storage of wastes at the facility in such a manner that: (i) Demonstrates that the wastes stored at the facility will be removed or disposed of in an appropriate manner; and (ii) Threat to public health or safety or to the environment from wastes in the facility is eliminated; and, (iii) Eliminates or minimizes the need for further maintenance or monitoring.

Closure activities include: (i) Removal of waste, (ii) Site decommissioning elements, if necessary, (iii) Generation and management of any closure-derived wastes, (iv) Notification of closure completion, (v) Final Report and Closure certification.
The final closure report must be submitted within 30-days of closure completion of work outlined in the closure plan. This closure report shall document actions taken to close the facility and shall include receipts for waste disposal/transport. The report signer shall certify that the approved facility closure has been completed within 180 days of initiation of closure activities.
- (q) Documentation of Liability Insurance or Financial Assurance for the facility.

MAPS (required)

The following maps MUST BE INCLUDED that provide the following information:

(a) A site map that delineates the boundary lines of:

- (i) Recycling area in relation to property boundary;
- (ii) Direction of prevailing winds;
- (iii) Location of access roads and on-site roads;
- (iv) Location of property boundaries and names/addresses of all contiguous landowners;
- (v) Location of water supply wells, buildings, residences, surface water bodies, and drainage swales within 1,000-feet of the site; and,
- (vi) Identification of all current and future facility buildings.

(b) A vicinity map of 1:24,000 scale that delineates the following areas within one-mile of the facility boundaries, including:

- (i) Zoning and land use;
- (ii) Residences;
- (iii) Surface waters;
- (iv) Access roads, bridges, railroads, airports;
- (vii) Historic sites and other manmade or natural features relating to the project.

Section 4 – Certifications

APPLICANT CERTIFICATION – OWNER SIGNATURE

I am the party responsible for operation of this proposed facility. I certify that the above described solid waste management system will be constructed and operated in accordance with Sections 75-10-201 through 75-10-233, Montana Code Annotated (MCA), the rules adopted pursuant thereto, and in accordance with conditions which have or may be imposed in the license. I have personally examined and am familiar with the information in this application and all attached documents. To the best of my knowledge, information, and belief, the submitted information is accurate and complete.

Applicant printed name

Applicant Signature

Date

LOCAL PLANNING AND ZONING CERTIFICATION

(To be signed by appropriate local government official having knowledge of local zoning ordinances)

I hereby certify that the site of the planned solid waste management system is in accordance with local governmental zoning and ordinances.

(Printed name of local official)

(Title)

(Signature of local official)

(Date)

